

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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PAUL LECLAIR,  
Plaintiff

V.

HOME DEPOT U.S.A., INC.,  
Defendant

CIVIL ACTION NO: 04-11633RGS

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JOINT PETITION FOR APPROVAL OF SETTLEMENT  
PURSUANT TO M.G.L. CH. 152, SEC. 15

NOW come the Plaintiff, Paul LeClair, and the Defendant, Home Depot U.S.A, Inc., by and through their respective attorneys, and hereby petition this Honorable Court to approve a settlement in this case in the amount of One Hundred and Fifty Thousand (\$150,000.00) Dollars. In further support, the parties state:

1. This action arises from a fall in the Defendant's store located in Manchester, New Hampshire. The fall occurred on March 14, 2002.
2. At the time of the accident, Plaintiff was an employee of Washington Inventory Service, an inventory counting company.
3. Plaintiff was in the course of employment for Washington Inventory Service at the time of the fall.
4. As a result of the fall, the Plaintiff was injured and was transported by ambulance to a local hospital. Plaintiff has received extensive medical treatment for his injuries beginning on March 14, 2002 up to and including the present.
5. Plaintiff severely fractured his right wrist. In the subsequent months and years, he has undergone five surgeries and presently has an 8% disability rating and permanent scarring and disfigurement of the wrist.
6. The Defendant denies any negligence and/or causal link between the fall and the Plaintiff's injuries.
7. The parties believe it is in their best interest to have this matter resolved without trial and on the agreed upon terms.
8. The parties acknowledge that the amount paid to the Plaintiff is in full settlement of all claims he has or will have against the Defendant for injuries arising out of the

March 14, 2002 fall.

9. The Plaintiff's medical bills and weekly worker's compensation disability payments were paid through Washington Inventory Service's workman's compensation insurer, Travelers Insurance Company.
10. Traveler's Insurance Company has paid \$90,588.00 to date
11. Pursuant to M.G.L. ch. 152, section 15, the statutory excess is calculated as such:

Gross settlement:	\$150,000.00
Less: Total compensation payments	<u>\$90,588.00</u>
	\$59,412.00

12. The third party settlement will be apportioned among the Plaintiff, Traveler's Insurance Company and Plaintiff's counsel in the following manner:

Plaintiff:	\$44,352.00
Traveler's Insurance:	\$58,977.00
Legal fee:	\$44,352.00
Legal costs:	<u>\$2319.00</u>
TOTAL:	\$150,000.00

13. The Plaintiff's counsel is entitled to 33 1/3% of the gross settlement pursuant to the contingent fee agreement entered into with the Plaintiff.
14. Pursuant to M.G.L. Chapter 152, section 15, attorney fees and costs will be apportioned in the following manner:

<u>Legal Fee</u>		<u>Costs</u>
Plaintiff:	\$14,156.00	Plaintiff: \$904.00
Traveler's Insurance:	\$30,196.00	Traveler's: <u>\$1415.00</u>
(Waived by counsel in favor of Plaintiff only)	<u>\$5648.00</u>	
TOTAL:	\$50,000.00	\$2319.00

15. As Plaintiff is entitled to future Chapter 152 payments, the parties agree that based on the compromised legal fee and costs paid by the Plaintiff in this settlement, the future credits will be calculated based on the reduced amount of Plaintiff's legal fees and costs of \$5648.00 and his actual net recovery of \$44,352.00.
16. Further, Traveler's Insurance will pay 12.5% of any future Chapter 152 benefits until the Plaintiff has been reimbursed for his share of attorney fees and costs in the amount of \$5648.00 and Traveler's Insurance has exhausted its offset of \$44,352.00. Thereafter Traveler's Insurance Company will

pay 100% of any Chapter 152 benefits which become due.

WHEREFORE the parties respectfully request that this Court approve the settlement in the amount of One Hundred and Fifty Thousand (\$150,000.00) Dollars.

Respectfully Submitted,  
The Plaintiff, by his  
Attorney,

Respectfully Submitted,  
The Defendant, by its  
Attorney,



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Dated: January 31, 2007

Respectfully Submitted,  
Travelers,



Sallie Weber, Claims Representative  
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